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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Silke KOHLHASE et al.

Confirmation No. 6657
Group Art Unit: 1617

Serial No. : 10/759,160

Examiner: Jean-Louis, Samira

Filed : January 20, 2004

For : PEARLESCENT COSMETIC OR DERMATOLOGICAL FORMULATIONS

APPEAL BRIEF UNDER 37 C.F.R. § 41.37

Commissioner for Patents
U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Appeal Brief - Patents
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Sir:

This Appeal is from the Examiner's Final Rejection of claims 78-136 set forth in the Final Office Action mailed from the U.S. Patent and Trademark Office on April 16, 2008 and confirmed in the Advisory Action mailed July 10, 2008.

A Notice of Appeal in response to the April 16, 2008 Final Office Action was filed on July 16, 2008.

The requisite fee under 37 C.F.R. § 41.20(b)(2) for filing this Appeal Brief and the fee for a one-month extension of time are being paid concurrently herewith.

The Patent and Trademark Office is hereby authorized to charge any additional fees which may be deemed necessary for maintaining the pendency of this application, including any appeal or extension of time fees that may be necessary, to Deposit Account No. 19-0089.

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I. REAL PARTY IN INTEREST

The real party in interest in this appeal is Beiersdorf AG of Hamburg, Germany. The corresponding assignment was recorded in the U.S. Patent and Trademark Office on May 11, 2004 at REEL 015313, FRAME 0607.

II. RELATED APPEALS AND INTERFERENCES

Appellants, Appellants' representative or the Assignee are not aware of any prior and pending appeals, interferences or judicial proceedings which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

III. STATUS OF CLAIMS

The status of the claims is as follows:

Claims 1-77 are cancelled.

Claims 78-136 are pending in this application.

Each of claims 78-136 is indicated as rejected in the Final Office Action mailed April 16, 2008.

The rejection of each of claims 78-136 is under appeal. Claims 78-136 involved in the appeal are reproduced in the Claims Appendix attached hereto.

IV. STATUS OF AMENDMENTS

An Amendment in response to the Final Office Action mailed April 16, 2008 was filed June 16, 2008. According to the Advisory Action mailed July 10, 2008 this Amendment has been entered.

V. SUMMARY OF CLAIMED SUBJECT MATTER

A. Claim 78

Independent claim 78 is drawn to a cosmetic or dermatological composition which is pearlescent and comprises the following components:

(I) up to 10% by weight, based on a total weight of the composition, of one or more C_{12}-C_{40} fatty acids,

(II) from 0.1% to 10% by weight, based on a total weight of the composition, of one or more C_{12}-C_{40} fatty alcohols,

(III) from 0.01% to 10% by weight, based on a total weight of the composition, of at least one of an amphiphilic polymer, an associative polymer and a siloxane elastomer,

(IV) sodium hydroxide and/or potassium hydroxide,

(V) from 0.1% to 10% by weight, based on a total weight of the composition, of one or more C_{12}-C_{40} polyethoxylated fatty acid esters having a polyethoxy chain length of from 10 to 100, and

(VI) optionally, at least one low molecular weight surfactant.

See, e.g., page 1, lines 8-9, page 3, lines 1-22 and page 48, lines 11-23 of the present specification.

B. Claim 79

Independent claim 79 is drawn to a cosmetic or dermatological composition which is pearlescent and comprises the following components:

(I) up to 12% by weight, based on a total weight of the composition, of one or more C_{12}-C_{40} fatty acids,

(II) from 0% to 3% by weight, based on a total weight of the composition, of one or more C_{12}-C_{40} fatty alcohols,

(III) from 0.01% to 10% by weight, based on a total weight of the composition, of at least one of an amphiphilic polymer, an associative polymer and a siloxane elastomer, and

(IV) at least one of sodium hydroxide and potassium hydroxide.

See, e.g., page 1, lines 8-9, page 3, lines 1-22 and page 48, lines 2-11 of the present specification.

C. Claim 120

Independent claim 120 is drawn to a cosmetic or dermatological composition which is pearlescent and substantially free of mono- and di-fatty acid esters of glycerol and glycol. The composition comprises the following components:

(I) up to 12% by weight, based on a total weight of the composition, of one or more C_{12}-C_{40} fatty acids,

(II) from 0% to 3% by weight, based on a total weight of the composition, of one or more C_{12}-C_{40} fatty alcohols,

(III) from 0.01% to 10% by weight, based on a total weight of the composition, of at least one of an amphiphilic polymer, an associative polymer and a siloxane elastomer, and

(IV) at least one of sodium hydroxide and potassium hydroxide.

See, e.g., page 1, lines 8-9, page 3, lines 1-22, page 16, lines 22-24 and page 48, lines 2-11 of the present specification.

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The broad issue under consideration is:

Whether claims 78-136 are properly rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Riedel et al., U.S. Patent No. 6,558,680 (hereafter "RIEDEL") in view of Charlton et al., U.S. Patent No. 6,486,106 (hereafter "CHARLTON") and in particular, whether the disclosures of RIEDEL and CHARLTON are sufficient to establish a *prima facie* case of obviousness of the subject matter of claims 78-136.

VII. ARGUMENTS

A. Citation of Authority

The appropriate starting point for a determination of obviousness is stated in *Graham v. John Deere Co.*, 383 U.S. 1, 17, 148 U.S.P.Q. 459, 466 (1966):

> Under § 103, the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained and the level of ordinary skill in the pertinent art resolved.

> Against this background, the obviousness or nonobviousness of the subject matter is determined.

The test of obviousness *vel non* is statutory and requires a comparison of the claimed subject matter as a whole with the prior art to which the subject matter pertains. *In re Brouwer*, 77 F.3d, 422, 37 U.S.P.Q. 2d 1663 (Fed. Cir. 1996); *In re Ochiai*, 71 F.3d 1565, 37 U.S.P.Q. 2d 1127 (Fed. Cir. 1995).

Often, it will be necessary to look to interrelated teachings of multiple patents; the effects of demands known to the design community or present in the marketplace; and the background knowledge possessed by a person having ordinary skill in the art to determine whether there was an apparent reason to combine the known elements in the fashion claimed by the patent at issue. This analysis should be made explicit. There must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. *KSR Int'l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1740-1741. "A patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art. Although common sense directs one to look with care at a patent application that claims as innovation the combination of two known devices according to their established functions, it can be important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does." *Id*, at 1741.

"If the Examiner fails to establish a *prima facie* case, the rejection is improper and will be overturned." *In re Rijckaert*, 9 F.3d, 1532, 28 U.S.P.Q.2d, 1956 (Fed. Cir. 1993), citing *In re Fine*, 837 F.2d 1071, 1074,5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988).

B. Claims 78-136 Are Not Properly Rejected Under 35 U.S.C. 103(a) As Being Unpatentable Over RIEDEL in View of CHARLTON

1. Summary of Rejection

The rejection essentially alleges that RIEDEL teaches cosmetic and dermatological compositions containing fatty acids, fatty alcohols, non-polar lipids and ethoxylated fatty acid esters and also teaches or suggests all other elements recited in the rejected claims with the exception of the presence of specific amphiphilic/associative polymers which are recited in some of the rejected claims and the presence of sodium hydroxide and potassium hydroxide. In this regard, the rejection relies on CHARLTON which allegedly teach the elements which are missing from RIEDEL. Regarding the recitation in all of the present independent claims of pearlescent as property of the cosmetic or dermatological composition, the Examiner takes the position that RIEDEL allegedly teaches the same composition and that the composition of RIEDEL in view of CHARLTON "would necessarily possess the same pearlescent properties as applicant given that properties are inseparable from the compounds of the composition" (see Continuation Sheet of Advisory Action of July 10, 2008, end of first paragraph).

2. There is no motivation to combine RIEDEL and CHARLTON

Appellants submit that due to the fundamental differences between the compositions of RIEDEL and the compositions of CHARLTON there is no motivation for one of ordinary skill in the art to combine the teachings of RIEDEL and CHARLTON.

Specifically, the compositions of RIEDEL are biocompatible cosmetic or dermatological oil-in-water emulsions which contain fatty acids, fatty alcohols, fatty acid

mono- and diglycerides, ethoxylated mono- and diglycerides and non-polar lipids as essential components (see, e.g., abstract of RIEDEL). The compositions of RIEDEL are intended for skin care (see, e.g., col. 1, lines 5-7) and are accordingly provided in the form of, for example, a skin protection cream, a skin lotion, a cosmetic milk, a sun protection cream, a sun protection milk, a cleansing milk, a sunscreen lotion, a nourishing cream, a day or night cream, etc. (see, e.g., col. 9, lines 39-43 and paragraph bridging columns 9 and 10 of RIEDEL).

In contrast to the skin care oil-in-water emulsions of RIEDEL, the compositions of CHARLTON are skin wash compositions which are intended for topical application to water-wetted skin and comprise an alpha-hydroxy acid active ingredient formulated in a mild and non-irritant detergent base consisting of a mixture of a non-ionic alkylpolyglucoside surfactant and an amphoteric surfactant (see, e.g., abstract of CHARLTON). CHARLTON does not appear to mention (O/W) emulsions as possible forms of the skin wash compositions disclosed therein, and does not even appear to mention any oils (lipids), let alone non-polar lipids as optional components of these compositions.

Moreover, the cosmetic skin care oil-in-water emulsions of RIEDEL are intended to stay on the skin and to have a reduced feel of stickiness and greasiness (see, e.g., col. 1, lines 36-40 and col. 3, lines 41-43), i.e., a property which would clearly not be of any particular importance in the case of a composition that is intended to be applied to water-wetted skin and subsequently rinsed off, like the skin wash compositions of CHARLTON (see, e.g., col. 1, lines 6-12 of CHARLTON)

The above comparison makes it clear that as far as intended application, properties and essential components are concerned, the skin care compositions of RIEDEL and the skin wash compositions of CHARLTON have nothing in common. Accordingly, there is no apparent reason for one of ordinary skill in the art who wants to improve the compositions of RIEDEL to consult CHARLTON in this regard, let alone to pick and choose specific optional components of the compositions of CHARLTON for incorporation into the compositions of RIEDEL. In view thereof, the Examiner's analysis of obviousness based on a combination of RIEDEL and CHARLTON is clearly based on hindsight.

3. RIEDEL in view of CHARLTON does not render it obvious adding sodium and/or potassium hydroxide to the compositions of RIEDEL

As conceded by the Examiner, RIEDEL neither teaches nor suggests adding sodium and/or potassium hydroxide to the compositions disclosed therein. In view thereof, the Examiner relies on CHARLTON in this regard, alleging that this document "teaches the use of neutralizing agents such as sodium hydroxide to neutralize the composition and control the pH of the composition" and further alleging that one of ordinary skill in the art "would have found it obvious to add sodium hydroxide in order to neutralize the instant cosmetic or dermatological composition of RIEDEL in view of the fact that such composition may necessitate pH control as disclosed by Charlton at al.". Page 7, third and fourth paragraphs of the April 16, 2008 Final Office Action.

Appellants submit that even if one were to assume, *arguendo*, that one of ordinary skill in the art would be motivated to combine the teachings of RIEDEL and CHARLTON, there is no apparent reason to add a neutralizing agent such as sodium or

potassium hydroxide to the compositions of RIEDEL. In particular, the compositions of CHARLTON contain as one essential component thereof a component of relatively high acidity, i.e., an alpha-hydroxy acid such as, e.g., lactic acid or salicylic acid, in an amount of up to 10 % by weight. Given the relatively high acidity of these alpha-hydroxy acids it is not surprising that CHARLTON teaches adding a neutralizing agent (preferably tromethamine) to the compositions disclosed therein to neutralize these acids and keep the pH of the composition at a level which is acceptable for contact with skin.

At any rate, as can be taken from the right columns of the tables for Examples 4 to 8 of CHARLTON, the addition of a neutralizing agent is not always necessary and can be dispensed with if the amount of alpha-hydroxy acid is not too high (e.g., if only 1 % by weight of lactic acid are employed).

RIEDEL does not teach or suggest the use of a compound of relatively high acidity in the compositions thereof, let alone in amounts which would considerably change (lower) the pH of the oil-in-water emulsions disclosed therein. Accordingly, even in view of the teaching of CHARLTON there would be no apparent reason for one of ordinary skill in the art to add a neutralizing agent and in particular, sodium hydroxide and/or potassium hydroxide, to the oil-in-water emulsions of RIEDEL.

Applicants submit that for the foregoing reasons alone, the Examiner has failed to establish a *prima facie* case of obviousness of the subject matter of any of claims 78-136 over RIEDEL in view of CHARLTON.

3. RIEDEL in view of CHARLTON fails to render it obvious to provide pearlescent compositions

All of the present independent claims recite that the cosmetic or dermatological compositions are pearlescent. The Examiner concedes, at least implicitly, that neither RIEDEL nor CHARLTON mention pearlescent compositions but essentially alleges that the compositions of RIEDEL, or the compositions which allegedly are rendered obvious by RIEDEL in view of CHARLTON, contain the same components as the claimed compositions and are thus, necessarily pearlescent as well.

Appellants submit that the compositions of RIEDEL are different from the claimed compositions for at least the reason that they do not contain sodium and/or potassium hydroxide. Moreover, even if one were to assume, *arguendo*, that one of ordinary skill in the art would be motivated to combine the teachings of RIEDEL and CHARLTON and, in view thereof, would add a neutralizing agent and in particular, sodium and/or potassium hydroxide to the compositions of RIEDEL (as explained above, both assumptions are without basis), this addition would not necessarily and automatically result in a pearlescent composition.

In particular, it is apparent to one of skill in the art that a pearlescent composition will not result by employing each and every ratio of the components within the concentration ranges recited in the present claims. While by starting from the components recited in the present independent claims and using them within the indicated concentration ranges it will take no more than routine experimentation to prepare a pearlescent composition (especially in view of the guidance provided by the present specification), a prerequisite for being able to conduct corresponding experiments is the knowledge that with the components and within the concentration ranges recited in the

present claims pearlescent compositions can, in fact, be prepared. Without this knowledge, obtaining a pearlescent composition by using the essential and various optional components of the compositions disclosed by RIEDEL and adding sodium/potassium hydroxide thereto would at best happen by coincidence.

Neither RIEDEL nor CHARLTON teaches or suggests that by using the components recited in the present independent claims within the indicated concentration ranges pearlescent compositions can be obtained, which is yet another reason why the Examiner has failed to establish a *prima facie* case of obviousness of the subject matter of any of claims 78-136 over RIEDEL in view of CHARLTON.

C. Additional Reasons Why Claims 82, 88, 100-103, 123, 128 and 132-135 Are Not Properly Rejected Under 35 U.S.C. 103(a) As Being Unpatentable Over RIEDEL In View Of CHARLTON

1. Claims 119 and 120

Independent claim 120 and dependent claim 119 (dependent from claim 78) both recite, *inter alia,* that the cosmetic or dermatological composition is substantially free of mono- and di-fatty acid esters of glycerol and glycol. In contrast, RIEDEL teaches that the compositions disclosed therein comprise from 0.2 to 10 % by weight of fatty acid mono- and diglycerides (see, e.g., abstract of RIEDEL). The lowest concentration of a corresponding compound (glyceryl stearate) used in the Examples of RIEDEL is 2.00 % by weight (see Example 1). Accordingly, RIEDEL not only fails to render obvious the subject matter of claims 119 and 120 but even teaches away therefrom. CHARLTON is apparently unable to cure this deficiency of RIEDEL, an neither has the Examiner made any allegations in this regard.

Appellants note that the Examiner takes the position that the recitation of "substantially free" in claims 119 and 120 encompasses the concentration of 0.2-10 % by weight of fatty acid mono- and/or diglycerides which is to be present in the compositions of RIEDEL. In this regard, the Examiner relies on a dictionary definition of "substantially" as meaning "being largely but not wholly that which is specified" and asserts that in view thereof, "substantially free does not mean absolutely free" and therefore, containing 0.2 % of mono- and di-fatty acid esters of glycerol and glycol allegedly is the same as being substantially free of mono- and di-fatty acid esters of glycerol and glycol (page 4, second paragraph of the April 16, 2008 Final Office Action).

Appellants are unable to follow this logic. At least the inventors of RIEDEL apparently did not consider a composition containing 0.2 % of mono- and di-fatty acid esters of glycerol and glycol to be substantially free of mono- and di-fatty acid esters of glycerol and glycol. After all, mono- and di-fatty acid esters of glycerol and glycol evidently are an essential component of the compositions of RIEDEL (see, e.g., claim 1 of RIEDEL) and it would defy logic to interpret the teaching of RIEDEL as meaning that the compositions disclosed therein may be "substantially free" of these essential components.

At any rate, it is pointed out that present independent claims 78 and 120 recite, *inter alia*, a lower value of the concentration range of component (III) of 0.01 % by weight, which is a clear indication that even if a composition according to claim 78 or claim 120 comprises a component in a concentration of only 0.01 % by weight the composition is not considered to be "substantially free" of this component. Accordingly, the present claims leave no doubt that in order to be substantially free of a given

substance, a composition would have to contain less than 0.01 % by weight, i.e., much less than the concentration of 0.2 % by weight recited by RIEDEL.

Appellants submit that also for the foregoing additional reasons (i.e., in addition to the reasons set forth in section VII.B. above), the Examiner has failed to establish a *prima facie* case of obviousness of the subject matter of claims 119 and 120 (and the claims dependent therefrom) over RIEDEL in view of CHARLTON.

2. Claims 82, 88, 102, 103, 123, 128, 134 and 135

Dependent claims 82, 88, 102, 103, 123, 128, 134 and 135 all have in common that they recite that component (III) of the compositions recited in independent claims 78, 79 and 120 comprises at least one of dimethicone/vinyl dimethicone crosspolymer, polysilicone-11, acrylate/vinyl isodecanoate crosspolymer, acrylate/steareth-20 methacrylate copolymer, acrylate/steareth-20 itaconate copolymer, acrylate/steareth-50 acrylate copolymer, acrylate/palmeth-25 acrylate copolymer, steareth-10 allyl ether/acrylate copolymer, PEG-120 methylglucose dioleate, PEG-60 sorbitan tetraoleate, PEG-150 pentaerythrityl tetrastearate, PEG-55 propylene glycol oleate, PEG-150 distearate and PEG-180/laureth-50 TMMG copolymer.

The Examiner concedes that RIEDEL does not disclose any of these polymers, but notes that RIEDEL mentions "polymers" as (optional) components of the compositions disclosed therein, and essentially asserts that in view thereof, one of ordinary skill in the art would have allegedly have found it obvious to pick and choose three of the above polymers, i.e., acrylate/vinyl isodecanoate crosspolymer, PEG-55

propylene glycol oleate, PEG-150 distearate from the disclosure of CHARLTON for incorporation into the oil-in-water skin care emulsions of RIEDEL.

Appellants submit that even if one were to assume, *arguendo*, that one of ordinary skill in the art would be motivated to combine the teachings of RIEDEL and CHARLTON it is not seen that he or she would have any apparent reason to incorporate one or more of acrylate/vinyl isodecanoate crosspolymer, PEG-55 propylene glycol oleate and PEG-150 distearate, i.e., polymers which are disclosed in CHARLTON as optional components of the compositions disclosed therein, into the compositions of RIEDEL.

In this regard, it is noted that with respect to acrylate/vinyl isodecanoate crosspolymer (Stabylen 30) CHARLTON states in col. 4, lines 11-23 (emphases added):

> The urethane polymers described herein may generally comprise up to 10% w/w of the skin wash composition, suitably from 1 to 8% w/w, and preferably 2 to 5% w/w of the skin wash composition. Suitably compositions comprising the urethane polymer(s) may further comprise a stabilizing agent, suitably in an amount ranging from 0.01 to 2% w/w, preferably from 0.1 to 0.5% w/w. In principle any stabilizing agent may be used which is acceptable for topical application to the skin and suitable for use within the pH range of the invention e.g. an acrylic acid/vinyl ester copolymer, available as Stabylen 30, from 3V Sigma S.P.A., Third Floor, Clarendon House, Stamford New Road, Altrincham, Cheshire WA14 1BY.

Accordingly, even according to CHARLTON the presence of Stabylen 30 in the compositions taught therein may be advantageous only if a (specific) polyurethane which can be stabilized by Stabylen 30 is present in the composition. It is not seen that RIEDEL teaches or suggests incorporating a polyurethane into the oil-in-water emulsions disclosed therein, and for this reason alone, RIEDEL in view of CHARLTON is unable to render obvious the presence of acrylate/vinyl isodecanoate crosspolymer in the compositions of RIEDEL.

Regarding PEG-55 propylene glycol oleate and PEG-150 distearate Appellants note that these polymers are mentioned as two of several examples of suitable thickeners which may optionally be present in the skin wash compositions of CHARLTON. It is not seen why one of ordinary skill in the art would have found it obvious to pick one or both of these two specific thickeners instead of one or more thickeners from the list of examples of optional organic and inorganic thickeners which is provided in the paragraph bridging columns 12 and 13 of RIEDEL, and neither does the Examiner provide any explanation in this regard.

Appellants submit that also for the foregoing additional reasons (i.e., in addition to the reasons set forth in section VII.B. above), the Examiner has failed to establish a *prima facie* case of obviousness of the subject matter of claims 82, 88, 102, 103, 123, 128, 134 and 135 (and the claims dependent therefrom) over RIEDEL in view of CHARLTON.

3. Claims 100, 101, 132 and 133

Dependent claims 100, 101, 132 and 133 have in common that they recite that the compositions of independent claims 78, 79 and 120 contain at least 0.5% by weight of a siloxane elastomer.

In this regard, the Examiner alleges that RIEDEL teaches the use of Abil Wax 9840 in the compositions disclosed therein and further alleges that according to the Evonic Industries data sheet attached to the Advisory Action of July 10, 2008, Abil Wax 9840 is a liquid to waxy organopolysiloxane which is synthesized by linking

polydimethylsiloxane with long chain hydrocarbons and possesses good spreadability and feels good to the skin, wherefore it "necessarily meets" the definition of a siloxane elastomer given at page 11 of the present specification (Advisory Action, Continuation Sheet, second paragraph).

Appellants respectfully disagree with the Examiner in this regard. Specifically, page 11 of the present specification states, *inter alia* (emphasis added):

> Siloxane elastomers are partially or completely crosslinked and in most cases have a three-dimensional structure. They are obtainable by a reaction of vinyl-terminated polymethylsiloxane and methylhydrodimenthylsiloxane or else by reaction of hydroxy-terminated dimethylpolysiloxane and trimethylsiloxy-terminated methylpolysiloxane:

Appellants are unable to see any indication in the data sheet for Abil Wax 9840 that this substance is partially or completely crosslinked. For this reason alone, it is apparent that the Examiner's assumption that Abil Wax 9840 qualifies as siloxane elastomer as recited in the present claims is without merit.

It is submitted that also for the foregoing additional reason (i.e., in addition to the reasons set forth in section VII.B. above), the Examiner has failed to establish a *prima facie* case of obviousness of the subject matter of claims 100, 101, 132 and 133 over RIEDEL in view of CHARLTON.

VIII. CONCLUSION

Appellants respectfully submit that for at least all of the foregoing reasons, the Examiner has failed to establish a *prima facie* case of obviousness of any of claims 78-136 over RIEDEL and CHARLTON, which is a prerequisite for maintaining a rejection

under 35 U.S.C. § 103. The Board is, therefore, respectfully requested to reverse the Final Rejection, and to allow the application to issue in its present form.

Respectfully submitted,
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CLAIMS APPENDIX

78. A cosmetic or dermatological composition, wherein the composition comprises:

(I) up to 10% by weight, based on a total weight of the composition, of one or more C_{12}-C_{40} fatty acids,

(II) from 0.1% to 10% by weight, based on a total weight of the composition, of one or more C_{12}-C_{40} fatty alcohols,

(III) from 0.01% to 10% by weight, based on a total weight of the composition, of at least one of an amphiphilic polymer, an associative polymer and a siloxane elastomer,

(IV) at least one of sodium hydroxide and potassium hydroxide,

(V) from 0.1% to 10% by weight, based on a total weight of the composition, of one or more C_{12}-C_{40} polyethoxylated fatty acid esters having a polyethoxy chain length of from 10 to 100,

(VI) optionally, at least one low molecular weight surfactant;

and wherein the composition is pearlescent.

79. A cosmetic or dermatological composition, wherein the composition comprises:

(I) up to 12% by weight, based on a total weight of the composition, of one or more C_{12}-C_{40} fatty acids,

(II) from 0% to 3% by weight, based on a total weight of the composition, of one or more C_{12}-C_{40} fatty alcohols,

(III) from 0.01% to 10% by weight, based on a total weight of the composition, of at least one of an amphiphilic polymer, an associative polymer and a siloxane elastomer,

(IV) at least one of sodium hydroxide and potassium hydroxide;

and wherein the composition is pearlescent.

80. The composition of claim 78, wherein (I) comprises at least one of stearic acid and palmitic acid.

81. The composition of claim 78, wherein (II) comprises at least one of myristyl alcohol, cetyl alcohol, behenyl alcohol, stearyl alcohol and cetearyl alcohol.

82. The composition of claim 78, wherein (III) comprises at least one of dimethicone/vinyl dimethicone crosspolymer, polysilicone-11, acrylate/vinyl isodecanoate crosspolymer, acrylate/steareth-20 methacrylate copolymer, acrylate/steareth-20 itaconate copolymer, acrylate/steareth-50 acrylate copolymer, acrylate/palmeth-25 acrylate copolymer, steareth-10 allyl ether/acrylate copolymer, PEG-120 methylglucose dioleate, PEG-60 sorbitan tetraoleate, PEG-150 pentaerythrityl tetrastearate, PEG-55 propylene glycol oleate, PEG-150 distearate and PEG-180/laureth-50 TMMG copolymer.

83. The composition of claim 78, wherein (IV) comprises sodium hydroxide.

84. The composition of claim 78, wherein (V) comprises at least one of PEG-30 stearate, PEG-40 stearate and PEG-100 stearate.

85. The composition of claim 84, wherein (VI) comprises at least one of steareth-2, laureth-4 and ceteth-3.

86. The composition of claim 79, wherein (I) comprises at least one of stearic acid and palmitic acid.

87. The composition of claim 79, wherein (II) comprises at least one of myristyl alcohol, cetyl alcohol, behenyl alcohol, stearyl alcohol and cetearyl alcohol.

88. The composition of claim 79, wherein (III) comprises at least one of dimethicone/vinyl dimethicone crosspolymer, polysilicone-11, acrylate/vinyl isodecanoate crosspolymer, acrylate/steareth-20 methacrylate copolymer, acrylate/steareth-20 itaconate copolymer, acrylate/steareth-50 acrylate copolymer, acrylate/palmeth-25 acrylate copolymer, steareth-10 allyl ether/acrylate copolymer, PEG-120 methylglucose dioleate, PEG-60 sorbitan tetraoleate, PEG-150 pentaerythrityl tetrastearate, PEG-55 propylene glycol oleate, PEG-150 distearate and PEG-180/laureth-50 TMMG copolymer.

89. The composition of claim 79, wherein (IV) comprises sodium hydroxide.

90. The composition of claim 78, wherein a ratio (I):(II):(V) is from 5:1:1 to 1:1:5.

91. The composition of claim 78, wherein a ratio (I):(II):(V) is from 3:1:1 to 3:1:3.

92. The composition of claim 78, wherein a ratio (I):(II):(V) is from 3:1:1 to 1:1:3.

93. The composition of claim 78, wherein the composition comprises from 0.1% to 10% by weight of (I).

94. The composition of claim 79, wherein the composition comprises from 0.1% to 10% by weight of (I).

95. The composition of claim 78, wherein the composition comprises from 0.1% to 5% by weight of (II).

96. The composition of claim 93, wherein the composition comprises up to 3% by weight of (II).

97. The composition of claim 78, wherein the composition comprises up to 5% by weight of (V).

98. The composition of claim 78, wherein the composition comprises from 0.01% to 5% by weight of at least one of an amphiphilic polymer and an associative polymer.

99. The composition of claim 79, wherein the composition comprises from 0.01% to 5% by weight of at least one of an amphiphilic polymer and an associative polymer.

100. The composition of claim 78, wherein the composition comprises at least 0.5% by weight of a siloxane elastomer.

101. The composition of claim 79, wherein the composition comprises at least 0.5% by weight of a siloxane elastomer.

102. The composition of claim 78, wherein the composition comprises:

(I) from 0.1% to 10% by weight of at least one of stearic acid and palmitic acid,

(II) from 0.1% to 10% by weight of at least one of cetyl alcohol, behenyl alcohol, stearyl alcohol and cetearyl alcohol,

(III) from 0.01% to 10% by weight of at least one of dimethicone/vinyl dimethicone crosspolymer, polysilicone-11, acrylate/vinyl isodecanoate crosspolymer, acrylate/steareth-20 methacrylate copolymer, acrylate/steareth-20 itaconate copolymer, acrylate/steareth-50 acrylate copolymer, acrylate/palmeth-25 acrylate copolymer, steareth-10 allyl ether/acrylate copolymer, PEG-120 methylglucose dioleate, PEG-60 sorbitan tetraoleate, PEG-150 pentaerythrityl tetrastearate, PEG-55 propylene glycol oleate, PEG-150 distearate and PEG-180/laureth-50/TMMG copolymer,

(IV) from 0.15% to 1% by weight of sodium hydroxide,

(V) up to 10% by weight of at least one of PEG-20 stearate, PEG-40 stearate and PEG-100 stearate, and

(VI) from 0% to 10% by weight of at least one of steareth-2, laureth-4 and ceteth-3.

103. The composition of claim 79, wherein the composition comprises:

(I) from 0.1% to 12% by weight of at least one of stearic acid and palmitic acid,

(II) from 0% to 3% by weight of at least one of cetyl alcohol, behenyl alcohol, stearyl alcohol and cetearyl alcohol,

(III) from 0.01% to 10% by weight of at least one of dimethicone/vinyl dimethicone crosspolymer, polysilicone-11, acrylate/vinyl isodecanoate crosspolymer, acrylate/steareth-20 methacrylate copolymer, acrylate/steareth-20 itaconate copolymer, acrylate/steareth-50 acrylate copolymer, acrylate/palmeth-25 acrylate copolymer, steareth-10 allyl ether/acrylate copolymer, PEG-120 methylglucose

dioleate, PEG-60 sorbitan tetraoleate, PEG-150 pentaerythrityl tetrastearate, PEG-55 propylene glycol oleate, PEG-150 distearate and PEG-180/laureth-50/TMMG copolymer,

(IV) 0.25% to 1% by weight of sodium hydroxide.

104. The composition of claim 78, wherein the composition comprises sodium hydroxide as an exclusive neutralizing agent.

105. The composition of claim 79, wherein the composition comprises sodium hydroxide as an exclusive neutralizing agent.

106. The composition of claim 78, wherein not more than 9% of the one or more fatty acids are saponified.

107. The composition of claim 79, wherein not more than 9% of the one or more fatty acids are saponified.

108. The composition of claim 78, wherein (VI) comprises laureth-4.

109. The composition of claim 78, wherein the composition further comprises up to 30% by weight of at least one of a non-polar lipid having a polarity of at least 30 mN/m, a mineral oil, a silicone oil and a wax.

110. The composition of claim 109, wherein the non-polar lipid and the wax are selected from non-polar hydrocarbons, hydrogenated polyisobutene, squalane, cyclomethicones, dimethicones, methyl palmitate and dimethiconol stearate.

111. The composition of claim 109, wherein a lipid phase of the composition comprises up to 60% by weight, based on a total weight of the lipid phase, of one or more polar lipids having a polarity of at most 30 mN/m.

112. The composition of claim 79, wherein the composition further comprises up to 30% by weight of at least one of a non-polar lipid having a polarity of at least 30 mN/m, a mineral oil, a silicone oil and a wax.

113. The composition of claim 112, wherein the non-polar lipid and the wax are selected from non-polar hydrocarbons, hydrogenated polyisobutene, squalane, cyclomethicones, dimethicones, methyl palmitate and dimethiconol stearate.

114. The composition of claim 112, wherein a lipid phase of the composition comprises up to 60% by weight, based on a total weight of the lipid phase, of one or more polar lipids having a polarity of at most 30 mN/m.

115. The composition of claim 78, wherein the composition further comprises PEG-40 hydrogenated castor oil as a solubilizer.

116. The composition of claim 79, wherein the composition further comprises PEG-40 hydrogenated castor oil as a solubilizer.

117. The composition of claim 78, wherein the composition further comprises ethanol in an amount of up to 30% by weight.

118. The composition of claim 79, wherein the composition further comprises ethanol in an amount of up to 30% by weight.

119. The composition of claim 78, wherein the composition is substantially free of mono- and di-fatty acid esters of glycerol and glycol.

120. A cosmetic or dermatological composition, wherein the composition is substantially free of mono- and di-fatty acid esters of glycerol and glycol and comprises:

(I) up to 12% by weight, based on a total weight of the composition, of one or more C_{12}-C_{40} fatty acids,

(II) from 0% to 3% by weight, based on a total weight of the composition, of one or more C_{12}-C_{40} fatty alcohols,

(III) from 0.01% to 10% by weight, based on a total weight of the composition, of at least one of an amphiphilic polymer, an associative polymer and a siloxane elastomer,

(IV) at least one of sodium hydroxide and potassium hydroxide;

and wherein the composition is pearlescent.

121. The composition of claim 119, wherein (I) comprises at least one of stearic acid and palmitic acid.

122. The composition of claim 119, wherein (II) comprises at least one of myristyl alcohol, cetyl alcohol, behenyl alcohol, stearyl alcohol and cetearyl alcohol.

123. The composition of claim 119, wherein (III) comprises at least one of dimethicone/vinyl dimethicone crosspolymer, polysilicone-11, acrylate/vinyl isodecanoate crosspolymer, acrylate/steareth-20 methacrylate copolymer, acrylate/steareth-20 itaconate copolymer, acrylate/steareth-50 acrylate copolymer, acrylate/palmeth-25 acrylate copolymer, steareth-10 allyl ether/acrylate copolymer, PEG-120 methylglucose dioleate, PEG-60 sorbitan tetraoleate, PEG-150 pentaerythrityl tetrastearate, PEG-55 propylene glycol oleate, PEG-150 distearate and PEG-180/laureth-50 TMMG copolymer.

124. The composition of claim 119, wherein (V) comprises at least one of PEG-30 stearate, PEG-40 stearate and PEG-100 stearate.

125. The composition of claim 119, wherein (VI) comprises at least one of steareth-2, laureth-4 and ceteth-3.

126. The composition of claim 120, wherein (I) comprises at least one of stearic acid and palmitic acid.

127. The composition of claim 120, wherein (II) comprises at least one of myristyl alcohol, cetyl alcohol, behenyl alcohol, stearyl alcohol and cetearyl alcohol.

128. The composition of claim 120, wherein (III) comprises at least one of dimethicone/vinyl dimethicone crosspolymer, polysilicone-11, acrylate/vinyl isodecanoate crosspolymer, acrylate/steareth-20 methacrylate copolymer, acrylate/steareth-20 itaconate copolymer, acrylate/steareth-50 acrylate copolymer, acrylate/palmeth-25 acrylate copolymer, steareth-10 allyl ether/acrylate copolymer, PEG-120 methylglucose dioleate, PEG-60 sorbitan tetraoleate, PEG-150 pentaerythrityl tetrastearate, PEG-55 propylene glycol oleate, PEG-150 distearate and PEG-180/laureth-50 TMMG copolymer.

129. The composition of claim 119, wherein a ratio (I):(II):(V) is from 5:1:1 to 1:1:5.

130. The composition of claim 119, wherein the composition comprises from

0.01% to 5% by weight of at least one of an amphiphilic polymer and an associative polymer.

131. The composition of claim 120, wherein the composition comprises from 0.01% to 5% by weight of at least one of an amphiphilic polymer and an associative polymer.

132. The composition of claim 119, wherein the composition comprises at least 0.5% by weight of a siloxane elastomer.

133. The composition of claim 120, wherein the composition comprises at least 0.5% by weight of a siloxane elastomer.

134. The composition of claim 119, wherein the composition comprises:

(I) from 0.1% to 10% by weight of at least one of stearic acid and palmitic acid,

(II) from 0.1% to 10% by weight of at least one of cetyl alcohol, behenyl alcohol, stearyl alcohol and cetearyl alcohol,

(III) from 0.01% to 10% by weight of at least one of dimethicone/vinyl dimethicone crosspolymer, polysilicone-11, acrylate/vinyl isodecanoate crosspolymer, acrylate/steareth-20 methacrylate copolymer, acrylate/steareth-20 itaconate copolymer, acrylate/steareth-50 acrylate copolymer, acrylate/palmeth-25 acrylate copolymer, steareth-10 allyl ether/acrylate copolymer, PEG-120 methylglucose

dioleate, PEG-60 sorbitan tetraoleate, PEG-150 pentaerythrityl tetrastearate, PEG-55 propylene glycol oleate, PEG-150 distearate and PEG-180/laureth-50/TMMG copolymer,

(IV) from 0.15% to 1% by weight of sodium hydroxide,

(V) up to 10% by weight of at least one of PEG-20 stearate, PEG-40 stearate and PEG-100 stearate, and

(VI) up to 10% by weight of at least one of steareth-2, laureth-4 and ceteth-3.

135. The composition of claim 120, wherein the composition comprises:

(I) from 0.1% to 12% by weight of at least one of stearic acid and palmitic acid,

(II) from 0% to 3% by weight of at least one of cetyl alcohol, behenyl alcohol, stearyl alcohol and cetearyl alcohol,

(III) from 0.01% to 10% by weight of at least one of dimethicone/vinyl dimethicone crosspolymer, polysilicone-11, acrylate/vinyl isodecanoate crosspolymer, acrylate/steareth-20 methacrylate copolymer, acrylate/steareth-20 itaconate copolymer, acrylate/steareth-50 acrylate copolymer, acrylate/palmeth-25 acrylate copolymer, steareth-10 allyl ether/acrylate copolymer, PEG-120 methylglucose dioleate, PEG-60 sorbitan tetraoleate, PEG-150 pentaerythrityl tetrastearate, PEG-55 propylene glycol oleate, PEG-150 distearate and PEG-180/laureth-50/TMMG copolymer, (IV) 0.25% to 1% by weight of sodium hydroxide.

136. The composition of claim 135, wherein the composition comprises sodium hydroxide as an exclusive neutralizing agent.

EVIDENCE APPENDIX

None.

RELATED PROCEEDINGS APPENDIX

None.